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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,451	12/12/2003	Randall Fuerst	JB0602	2007
27225	7590	12/24/2008		
JAMES F KIRK			EXAMINER	
16365 MARUFFA CIRCLE			VARGOT, MATHEU'D	
HUNTINGTON BEACH, CA 92649-2134				
		ART UNIT	PAPER NUMBER	
		1791		
		MAIL DATE	DELIVERY MODE	
		12/24/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,451

Applicant(s)

FUERST ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1791

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Claims 1-9, 11 and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 14 contain a recitation that the pattern is provided over a region of the target exceeding the perimeter of the contact lens to be formed. Yet there is no step of trimming the excess to make the lens as desired. Applicant should add a step of trimming the excess. Claim 13, at the end of step h, the word —and—should be inserted. In claims 13 and 14, while the step of “alternating...” has been deleted as being redundant to what has already been claimed, it is noted that the functionality of this step—ie, to prevent charge build-up-- was advanced as a major reason as to the success of the instant invention. Hence, it is submitted that this recitation should properly be put back into these claims in some manner for completeness. Claims 13 and 14, step h, last line, applicant should insert —desired—before “mean fibril distance”. Claim 14, the “and” at the end of step g should be deleted and placed at the end of step h. Claim 14, step I, line 1, the comma should be replaced with —and—. Claim 11, the Markush group language should be changed to —materials selected from the group consisting of collagen and HEMA— or written simply as —materials comprising collagen or HEMA—. As it stands, the language is an amalgamation of the two forms that has no set legal meaning.

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

While applicant has corrected most of the 112 issues, a few others were uncovered that need correction. Concerning the aspect of the alternating polarity removed from claims 13 and 14, it is believed that this aspect was important in achieving the instant contact lens formation and hence should properly be in the claims. Applicant can remove the recitation "of approximately 200 nm" in the last line of claim 14, step h, concerning the mean fibril distance.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
December 22, 2008

/Mathieu D. Vargot/
Primary Examiner, Art Unit 1791